IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIRST DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 8149 of 2004

Between:

Mohammed Moulana Hussain, S/o. Mohammed Hussain,
R/o. H.No.19-2-227/3& 4, Bahadurpurah, Hyderabad.

..... PETITIONER

AND

1 The Commissioner of Police Hyderabad, Hyderabad, A.P.
2 The Inspector of Police, Bahadurpurah Police Station,
Hyderabad.

..RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ order or direction more particularly in the nature of Writ of Mandamus directing the respondent No.2, to recover the stolen scrap lying with the purchasers and to take suitable action against the culprits.

Counsel for the Petitioner: MR.AHMED KHAN

Counsel for the Respondent No.: GP FOR HOME

The Court made the following :

THE HONOURABLE MS.JUSTICE G.ROHINI

WRIT PETITION NO.8149 OF 2004

ORDER:

The petitioner claims to be a dealer in old scrap of motor vehicles at Bahadurpura, Hyderabad. It is stated that the brothers of the petitioner conspired together and filed a private complaint against the petitioner in the Court of the II Additional Metropolitan Magistrate, Hyderabad alleging cheating and forgery. The said complaint was referred to the police Bahadurpura on 8.1.2004 and it was registered as Crime No.6 of 2004 for the offence under Section 420 and 468 of Indian Penal Code. It appears that the petitioner was arrested and subsequently he was released on bail on 13.1.2004. It is alleged that during the said period the brothers of the petitioner threatened the Chowkidar and other labourer and took away huge quantity of scrap worth about Rs.2,00,000/- from the business premises of the petitioner. The petitioner lodged a complaint with the Commissioner of Police, Hyderabad on 14.1.2004 stating that as per his enquiry the stolen scrap was sold to Hyderabad Trading Company, Bahadurpura, Hyderabad, M.S.Quddus Scrap Dealer at Kulsumpura, Hyderabad, Mubeen Scrap Dealer at Bahadurpura, Hyderabad and to Adil, Khaleel and other scrap dealers of Bahadurpura, Hyderabad. The complaint

lodged with the first respondent was forwarded to the Inspector of Police, Bahadurpura on 18.1.2004 and the same was registered as Crime No.18 of 2004 under Sections 380 and 506 of Indian Penal Code.

The grievance of the petitioner is that in spite of the fact that he disclosed the names and particulars of the persons to whom the stolen scrap was sold, the second respondent failed to take any steps for recovery of the same and failed to arrest the culprits for the reasons best known to him. Aggrieved by the inaction on the part of the second respondent, the petitioner filed Writ Petition No.6338 of 2004, but the said writ petition was dismissed by this Court observing that it is always open to the petitioner to complain to the higher authorities as to the alleged inaction on the part of the second respondent. Thereafter, the petitioner made a complaint, dated 12.4.2004 before the first respondent, but the first respondent did not issue any directions to the second respondent for recovery of the stolen material. The petitioner also sent a telegram on 21.4.2004 to first respondent, but there is no response. In the circumstances, this writ petition is filed seeking a writ of mandamus directing the second respondent to recover the stolen scrap lying with the purchasers and to initiate suitable action against the culprits.

On behalf of the respondents, the Inspector of Police, Bahadurpura Police Station filed counter affidavit denying all the allegations made by the petitioner. It is stated that Crime No.6 of 2004 which was registered on the basis of the complaint forwarded by the II Additional Metropolitan Magistrate, Hyderabad has been entrusted to Sri M.Narsinga Rao, Sub-Inspector of police, Bahadurpura for investigation during which seven witnesses have already been examined and the further investigation is in progress. So far as the crime No.18 of 2004 is concerned, it is stated that soon after registering the said crime against Mohd.Farooq Hussain and two brothers of the petitioner, the investigation has been entrusted to Sri M.Narsinga Rao, Sub-Inspector of Police. In pursuance thereof the investigating officer examined as many as five witnesses and recorded their statements. It is also further stated in the counter that the second brother of the petitioner by name Mohd.Farooq Hussain filed a private complaint before II Additional Metropolitan Magistrate, Hyderabad against the petitioner herein stating that in the year 1999 as per the request of the petitioner herein, the complainant (Mohd.Farooq Hussain) entrusted the scrap to the petitioner herein and the petitioner herein sold the same for Rs.5,21,000/- and issued a cheque to the said amount. But, the said cheque was

returned since there are no funds, therefore, a complaint was lodged against the petitioner herein with the Inspector of Police, Bahadurpura Police Station, on the basis of which Crime No.25 of 2004 was registered under Section 420 and 406 of Indian Penal Code on 30.1.2004 and investigation in the said case is also in progress. The respondent further stated that the allegations of the petitioner that the respondents failed to take any steps is in correct and the investigation with regard to all the three crimes, i.e., Crime No.6 of 2004, Crime No.18 of 2004 and Crime No.25 of 2004 are pending and it is also found during the investigation that the petitioner and his three brothers including Mohd.Farooq Hussain who is accused in Crime No.18 of 2004 are doing scrap business in the same premises at Bahadurpura after the demise of their father. It is further stated in the Counter that the investigation has not established that the scrap alleged to have been sold by Mohd.Farooq Hussain, the younger brother of the petitioner, belongs to the petitioner herein, therefore, the question of recovery of the same does not arise at this stage. It is further stated that there are civil disputes between the petitioner and his three brothers after the demise of their father in respect of house property and business properties due to which they have been making complaints against each other.

In the light of the averments in the counter affidavit it is clear that the respondents are investigating into all the three crimes in accordance with law, which is in progress. In the circumstances, I do not find any substance in the allegation of the petitioner that the respondents failed to take any steps for recovery of the alleged stolen scrap from the business premises of the petitioner. Admittedly, there are rival claims among the petitioners and his brothers with regard to family properties and business and the writ petition is misconceived.

Accordingly, the writ petition is dismissed. No costs.

21.7.2004.

mdaa/bcs.

COPY TO:

1 The Commissioner of Police Hyderabad, Hyderabad, A.P.
2 The Inspector of Police, Bahadurpurah Police Station, Hyderabad.

3. Two C.Cs.to G.P. for Home, High Court of A.P., Hyderabad (OUT)

4. Two C.D.Copies.